

City of Gainesville

*City Hall
200 East University Avenue
Gainesville, Florida 32601*



Meeting Agenda

June 17, 2010

1:00 PM

City Hall Auditorium

City Commission

Mayor Craig Lowe (At Large)

Mayor-Commissioner Pro Tem Jeanna Mastrodicasa (At Large)

Commissioner Scherwin Henry (District 1)

Commissioner Lauren Poe (District 2)

Commissioner Jack Donovan (District 3)

Commissioner Randy Wells (District 4)

Commissioner Thomas Hawkins (At Large)

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone

CALL TO ORDER - 1:02 PM

AGENDA STATEMENT

"Citizens are encouraged to participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three) minutes per agenda item. Additional time may be granted by the Mayor or by the City Commission as directed. The City of Gainesville encourages civility in public discourse and requests that speakers limit their comments to specific motions and direct their comments to the Chair. Signs or Props are not permitted in the meeting room. Citizens are encouraged to provide comments in writing to the Clerk of the Commission before meetings and/or during meetings for inclusion into the public record. Citizens may also provide input to individual commissioners via office visits, phone calls, letters and e-Mail, that will become public record. In some instances, i.e., Quasi-Judicial Hearings, these particular contacts may be prohibited."

ROLL CALL

INVOCATION

CONSENT AGENDA

CITY MANAGER, CONSENT AGENDA ITEMS

070790.

Land Conservation and Acquisition Program - Jurecko Property Intergovernmental Agreement between Alachua County and City of Gainesville (B)

This item involves a proposal to work cooperatively with Alachua County to acquire the Jurecko property, parcel numbers 07901-000-000 and 07902-001-000.

Explanation: In April 2009, Ramesh Buch, Environmental Program Supervisor with the Alachua County Environmental Protection Department, presented an opportunity to City staff to partner in the acquisition of 12 acres of land adjacent to the Hogtown Creek Headwaters Nature Park. The land was initially presented to Mr. Buch by the owner, Dr. Jurecko. Since the land lies within City limits, Mr. Buch approached the City of Gainesville Parks, Recreation and Cultural Affairs Department staff to obtain the City's interest in the property. The City expressed interest in the acquisition; however, because it was not included on the initial priority land acquisition list, staff needed to obtain approval from the City Commission to add the two parcels to the approved list. Such approval was obtained by the City Commission on January 7, 2010.

In order to move forward with an appraisal and the ultimate goal of acquiring the property, Alachua County requested that the City of Gainesville enter into an Intergovernmental Agreement. The agreement, as provided, will split the purchase price and associated costs 50/50 between the City and the County. In addition, the City will take responsibility for all land management. If approved

and acquired, since this property will be an addition to the Hogtown Creek Headwaters Nature Park, addition of this property to the Registry of Protected Public Places will be considered by the City and County when and if the Hogtown Creek Headwaters Nature Park is considered for listing.

...Fiscal Note

If approved, the City will enter into an Intergovernmental Agreement with Alachua County to pursue the joint acquisition of the Jurecko property. Funding for this acquisition will come from the Wild Spaces Public Places funds (Account #346-850-B900-5720-6030). Estimated costs will be known upon such time as the appraisals are completed.

Fiscal Note: If approved, the City will enter into an Intergovernmental Agreement with Alachua County to pursue the joint acquisition of the Jurecko property. Funding for this acquisition will come from the Wild Spaces Public Places funds (Account #346-850-B900-5720-6030). Estimated costs will be known upon such time as the appraisals are completed.

RECOMMENDATION

The City Commission: 1) approve the Intergovernmental Agreement, and 2) authorize the City Manager to execute the Agreement, subject to approval by the City Attorney as to form and legality.

Legislative History

1/14/08	City Commission	Approved as Recommended (6 - 0 - 1 Absent)	
1/14/08	City Commission	Referred	Recreation, Cultural Affairs and Public Works Committee
8/14/08	Recreation, Cultural Affairs and Public Works Committee	Discussed	
9/11/08	Recreation, Cultural Affairs and Public Works Committee	Continued	
10/9/08	Recreation, Cultural Affairs and Public Works Committee	Approved	
11/20/08	City Commission	Approved as Amended (5 - 0 - 2 Absent)	
6/18/09	City Commission	Withdrawn	
1/7/10	City Commission	Approved as Recommended (6 - 0 - 1 Absent)	

070790a_20080114130.pdf
 070790b_20080114130.pdf
 070790_CORRESPONDENCE_20081120.pdf
 070790_MAP_20081120.pdf
 070790_Interagency Agreement_20090618.PDF
 070790a_Evaluation-AlachuaCo_20100107.pdf
 070790b_Evaluation-COG_20100107.PDF
 070790c_Priority Table_20100107.PDF
 070790d_LA Summary 01_20100107.PDF
 070790e_LA Summary 02_20100107.PDF
 070790f_LA Summary 03natcomm_20100107.PDF
 070790_agreement_20100617.pdf
 070790a_agreement_20100617.pdf

071118.**Land Surplus for Alachua County Historic Trust Matheson Museum, Inc. (B)**

This item is a request for the surplus of additional property for the Alachua County Historic Trust Matheson Museum, Inc.

Explanation: At the April 28, 2008 City Commission meeting, the Commission declared the approximate 0.10-acre portion of City owned, Sweetwater Park as surplus and agreed to sell it at the fair market value of \$19,950 to the Alachua County Historic Trust Matheson Museum. The Commission authorized the City Manager to execute the Purchase and Sale Agreement, to prepare a Special Warranty Deed, and authorized the Mayor to execute the deed to convey the 0.10-acre portion to be combined with a parcel the Museum owns. This 0.10-acre portion of City owned property was 28 feet deep by approximately 160 feet long.

It has now come to staff's attention that in order for the Matheson property to be compliant with zoning requirements, they will need an additional 2 feet for a total of 30 feet deep by approximately 160 feet long. The Alachua County Historic Trust Matheson Museum is willing to convey the original portion back in exchange for the requested 30 feet by approximately 160 feet portion of Sweetwater Park. The new configuration of property is an additional approximately 67 square feet and will meet zoning compliance. Applying the \$4.50 per square foot costs, associated with the original purchase, the approximately 67 square feet would be an additional \$300. In addition, if the newly created property line encroaches within 3 feet of the pedestrian sidewalk located in the park, the Alachua County Historic Trust Matheson Museum has agreed to pay to relocate the sidewalk and signs. They have also agreed to install a green picket fence on the new property line.

Fiscal Note: Should the City Commission elect to approve this request, there is no cost to the City of Gainesville; the City will derive \$300 in revenue from the transaction.

RECOMMENDATION

Recommended Motion: The City Commission: 1) declare the additional 2 feet of Sweetwater Park as surplus; 2) accept the conveyance of the original portion from the Alachua County Historic Trust

Matheson Museum, Inc; and 3) authorize the Mayor to execute, and the Clerk to attest the Special Warranty Deed, subject to approval by the City Attorney as to form and legality.

Alternative Recommendation A

The City Commission: 1) deny this request, and 2) provide staff with further direction as appropriate.

Legislative History

4/28/08 City Commission Approved as Amended (6 - 0 - 1 Absent)

11/5/09 City Commission Withdrawn

071118a_200804281300.pdf

071118b_200804281300.pdf

071118c_200804281300.PDF

071118a_PHOTO_20080728.pdf

071118b_APPRAISAL_20080728.pdf

071118_Map_20091105.PDF

071118A_Matheson Property Map_20100617.PDF

071118B_Boundary Survey_20100617.pdf

071118_deed_20100617.pdf

091062.

Proposed Amendment to Airport Industrial Park Restated Declaration of Protective Covenants and Restrictions (B)

This item proposes deletion of Article XII, Right of Repurchase, of the Airport Industrial Park Restated Declaration of Protective Covenants and Restrictions.

Explanation: In August, 2009, staff received a letter from the owner of Lot #22 in the Airport Industrial Park indicating that based upon the unprecedented crisis in the State's real estate market that he would be unable to fulfill his development obligations under the terms of the contract and Airport Industrial Park Restated Declaration of Protective Covenants and Restrictions. As a result, he requested a release of the terms of the reverter and thus the ability to sell the subject property in the private market.

In order to achieve this result, it has been determined by staff that applicable provisions of the Airport Industrial Park Restated Declaration of Protective Covenants and Restrictions, need to be amended, namely deletion of Article XII, Right of Repurchase. Amendment of these Covenants and Restrictions is contemplated within the instrument (it has been done previously) and essentially requires the consensus of Airport Industrial Park owners representing 66 2/3's% of the total acreage of the property.

Staff has received the required authorization of five current owners and presuming City approval a total of 89.5 %of Airport Industrial Park acreage would be achieved overall.

This action is in the City's interest for the following reasons:

- Although ad valorem taxes are being generated on the subject property, there has been no building activity on Lot #22 and this policy action will likely lead to more timely development of a currently vacant site and therefore greater return to the City;
- The owner has indicated an interest in allowing the City to assist with pro-actively marketing the site to a compatible and sought after New "Innovative" Economy entity;
- In systematic terms, the current Restated Declaration of Protective Covenants and Restrictions applicable to the Airport Industrial Park could force the subject property and affected future property to revert to the City with proceeds refunded to the current owner. This is not in the City's interest as property sold fee simple for economic development purposes generates ad valorem tax revenue and the proceeds of sale are not within the City's control per prior agreement with GACRAA regarding disposition of Airport Industrial Park properties.

Fiscal Note: Sale of the subject property in the private market as a result of the amendment would allow for development that could boost ad valorem tax proceeds to the City and GACRAA. The proceeds of the sale of the subject property are not within the purview of the City to control at this juncture.

RECOMMENDATION

The City Commission: 1) approve the First Amendment to Second Amended and Restated Declaration of Protective Covenants and Restrictions for the Airport Industrial Park, Unit I, Unit II and Unit III located in the City of Gainesville, Alachua County, Florida; 2) authorize the Mayor to execute and the Clerk of the Commission to attest the First Amendment; 3) authorize the Mayor to execute and the Clerk of the Commission to attest a Quit-Claim Deed expressly releasing the reverter rights in and to Lot 22, Airport Industrial Park, Unit III owned by J.A. Beguiristain Holdings, Inc.; and 4) direct City Staff to record the fully executed First Amendment and Quit-Claim Deed in the Public Records of Alachua County, Florida.

091062a_1ST Amendment to Restrictions_20100617.pdf

091062b_Resolution 10-016_20100617.pdf

091062c_Quit Claim Deed_20100617.pdf

091062d_Deed Restrictions_20100617.pdf

091062_quitclaimdeed_20100617.pdf

091063.

Request to Surplus an Unimproved Segment of Northeast 14th Street (B)

This item is a request for the City Commission to declare an unimproved segment of Northeast 14th Street as surplus property.

Explanation: At the February 18, 2010 City Commission meeting, Pastor Alvin Ford of Mount Olive Primitive Baptist Church, gave a presentation regarding pedestrian traffic on the unimproved segment of Northeast 14th Street causing litter and security concerns to the church. The Mount Olive Primitive Baptist Church owns the property on both sides of the unimproved segment (the

segment is shown in red on the attached parcel and aerial map). This portion of Northeast 14th Street was conveyed to the City in 1962 by deed for \$500. The City purchased the property for the purpose of right-of-way connectivity; however, the property was never improved. There does appear to be pedestrian activity using the property to connect residents north of the church to the area to the south. The Waldo Road Trail is located approximately 600 feet to the west and sidewalks are available along Northeast 15th Street, approximately 400 feet to the east. According to the Tax Appraiser's value of the adjacent vacant parcels, this segment of Northeast 14th Street would have a value of \$4,800.

Staff has reviewed the area and does not see a current or future need for a vehicular connection in this area. There does appear to be a demand for a pedestrian connection; however that need could be met via the Waldo Road Trail or the sidewalk along NE 15 Street as noted above. If the City Commission desires to retain the right of way to reserve for future use staff would pursue the construction of a pedestrian/bicycle connection using CDBG funds if the community desires such a connection.

Fiscal Note: There is no fiscal impact. The church will pay all of the closing costs associated with the sales transaction.

RECOMMENDATION

The City Commission: 1) approve the request to declare this portion of Northeast 14th Street as surplus; 2) authorize the sale of this portion of Northeast 14th Street to Mount Olive Primitive Baptist Church for a sales price of \$4,800; 3) authorize the City Manager to execute a Purchase and Sale Contract for this portion of Northeast 14th Street, subject to approval by the City Attorney as to form and legality; and 4) authorize the Mayor to execute, and the Clerk to attest the Special Warranty Deed, subject to approval by the City Attorney as to form and legality.

Alternative Recommendation

The City Commission deny the request to declare this portion of Northeast 14th Street as surplus and retain this portion of property for future right-of-way connectivity.

091063_Maps_20100617.pdf

091063_Photos_20100617.pdf

091064.

Ratification of Agreement between the Communications Workers of America Local No. 3170 (Non-supervisory) Bargaining Unit and the City of Gainesville for January 1, 2010 through December 31, 2012 (B)

This item proposes the ratification of the Agreement between the Communications Workers of America Local No. 3170 (Non-supervisory) Bargaining Unit and the City of Gainesville.

Explanation: This Agreement has been reached through negotiations between the Communications Workers of America Local No. 3170 (Non-supervisory) Bargaining Unit and the City of Gainesville, and was ratified by the Communications Workers of America Local No. 3170 (Non-supervisory) Bargaining Unit on May 25, 2010. This Agreement extends the current Collective Bargaining Agreement through December 31, 2012.

A copy of the Agreement is on file in the Office of the Clerk of the Commission. After June 17, 2010, the Agreement will be on file in the Human Resources Department.

Fiscal Note: The one year general increase is 1% and the overall financial impact over current salaries is \$373,185. The funds for FY2010 are included in the budget. The costs for FY2011 and FY 2012 will be addressed in the budget preparation process and the collective bargaining process.

RECOMMENDATION *The City Commission ratify the Agreement between the Communications Workers of America Local No. 3170 (Non-supervisory) Bargaining Unit and the City of Gainesville extending the Agreement through December 31, 2012.*

091064_Agreement Changes Non-supervisory_20100617 1.PDF

091065.

Ratification of Agreement between the Communications Workers of America Local No. 3170 (Supervisory) Bargaining Unit and the City of Gainesville for January 1, 2010 through December 31, 2012 (B)

This item proposes the ratification of the Agreement between the Communications Workers of America Local No. 3170 (Supervisory) Bargaining Unit and the City of Gainesville.

Explanation: This Agreement has been reached through negotiations between the Communications Workers of America Local No. 3170 (Supervisory) Bargaining Unit and the City of Gainesville, and was ratified by the Communications Workers of America Local No. 3170 (Supervisory) Bargaining Unit on May 25, 2010. This Agreement extends the current Collective Bargaining Agreement through December 31, 2012.

A copy of the Agreement is on file in the Office of the Clerk of the Commission. After June 17, 2010, the Agreement will be on file in the Human Resources Department.

Fiscal Note: The one year general increase is 1% and the overall financial impact over current salaries is \$55,184. The funds for FY2010 are included in the budget. The costs for FY2011 and FY 2012 will be addressed in the budget preparation process and the collective bargaining process.

RECOMMENDATION *The City Commission ratify the Agreement between the Communications Workers of America Local No. 3170 (Supervisory) Bargaining Unit and the City of*

Gainesville extending the Agreement through December 31, 2012.

091065_Agreement Changes-Supervisory_20100617.PDF

100005.

Request for Qualifications for Architectural and Engineering Services for Wild Spaces, Public Places (WSPP) Projects (B)

This item involves a request for the City Commission to approve staff's ranking of Architectural and Engineering firms for development of the approved WSPP Cone Park project.

Explanation: On March 30, 2009, the City Purchasing Division received nineteen (19) proposals from Architectural and Engineering firms for the design and construction oversight for the WSPP projects. Fourteen (14) firms were selected to provide these services; of which nine (9) are Gainesville firms and four (4) are a part of the City's Small Business Procurement Program.

On September 17, 2009, the City Commission approved funding for Wild Spaces, Public Places capital projects, including the Cone Park project with track and multipurpose fields. On March 18, 2010, the City Commission approved the Cone Park Conceptual Site Plan, and directed staff to move forward with park development.

Parks Recreation and Cultural Affairs (PRAC) staff has evaluated the qualifications of the firms not currently working on WSPP projects and is recommending ranking of the following firms. The top ranked firm, Brame Architects has provided a master plan for the park in 1999 and most recently the City Commission approved conceptual plan on March 18, 2010. They are a qualified local small business firm in the City's Small Business Procurement Program. The top five ranked firms are: 1) Brame Architects; 2) Glatting/Jackson; 3) IBI; 4) Cubellis, and 5) Herbert/Halback (HHI).

Fiscal Note: Funds are available through the Wild Spaces Public Places Capital Improvement Projects One-Half Percent Infrastructure Sales Surtax.

RECOMMENDATION

The City Commission: 1) approve staff's recommended ranking of the firms; and 2) authorize the City Manager or designee to negotiate and execute a contract and any related documents, subject to approval from the City Attorney as to form and legality, for design and construction oversight of the Cone Park development.

Alternative Recommendation

The City Commission not accept the recommended ranking of firms and direct staff to review and initiate a different ranking.

100005_Bid Tab_20100617.pdf

100006.**Interlocal Agreement with the University of Florida Board of Trustees and the City of Gainesville Regional Transit System (B)**

This is a request for the City Commission to authorize the City Manager to execute a new Interlocal Agreement with the University of Florida Board of Trustees (UF) and the City of Gainesville Regional Transit System (RTS) to provide unlimited access to public transit to UF students.

Explanation: There is currently an Interlocal Agreement between UF and RTS to provide unlimited access to public transit to UF students. This Agreement expires on August 19, 2010. The UF Transportation Fee Committee and RTS meet on an annual basis to evaluate the current service and determine the need to modify or add services and wish to continue this Agreement which will cover the period from August 20, 2010 through August 19, 2013.

RTS staff negotiated a rate of \$59.70 per hour of service for FY 2010.

Fiscal Note: The total amount to be paid by UF is based on the number of hours service is provided by RTS, at the rate of \$59.70 per hour of service, the total revenue anticipated under this agreement is approximately \$10,119,034.

RECOMMENDATION

The City Commission: 1) approve the Interlocal Agreement between the University of Florida Board of Trustees (UF) and the City of Gainesville Regional Transit System (RTS) for the period of August 20, 2010 through August 19, 2013; and 2) authorize the City Manager to execute the Interlocal Agreement and related documents, subject to approval by the City Attorney as to form and legality.

100006_Agreement_2010.0617.pdf

100007.**Change Order to the Construction Contract for the SW 6th Street and SW 2nd Avenue Roundabout Project (B)**

This item is a request to approve a change order on the construction contract for the SW 6th Street and SW 2nd Avenue Project Roundabout.

Explanation: On April 01, 2010, the City Commission approved staff's recommendation to award a bid to O'Steen Brothers, Inc., for the construction of a roundabout at the intersection of SW 6th Street and SW 2nd Avenue in accordance with approved plans and specifications. When first conceptualized, this project included, among other things, two goals: 1) complete the project as quickly as possible; and 2) minimize the time during which citizens would be inconvenienced by construction. In order to meet these two goals, the bid specifications for this project included the allowance for the contractor to totally close the intersection for up to 90 consecutive days. In addition to moving the project forward as quickly as possible and minimizing the time during which citizens were inconvenienced, total closure of the intersection

allowed for construction cost savings by improved construction efficiencies. However, due to the number of roadway projects currently under construction by various jurisdictions, their associated road closures and detours and concerns expressed by area businesses about customer inconvenience, staff found it necessary to immediately change the maintenance of traffic parameters for the construction of the roundabout. This change was determined after discussions with and support of several local business persons. The net effect of this change is that southbound traffic will be maintained at the SW 6th Street intersection throughout the duration of the construction project.

It is highly desirable that this newly constructed roundabout be fully open to traffic in time for the start of the University of Florida Fall Semester activities and the associated Regional Transit System Fall Route Schedule. This would require the contractor to maintain the current allowed construction time without significant modification in spite of having to maintain one-way traffic south on SW 6th Street rather than a total intersection closure. This will require the contractor to construct a temporary roadway for the southbound traffic and to remove the temporary roadway to complete the project construction. Further, significant overtime is anticipated in order to have the project substantially completed by the end of the first week of August 2010.

For the reasons stated above, staff has directed the contractor to implement Change Order Number One, which includes: 1) to make the changes as described in the maintenance of traffic (MOT) document; 2) the provision for 7 additional calendar days to compensate for the delays incurred while the MOT issues were addressed; and 3) an increase in compensation in the amount of \$70,338 for the additional work and costs to the contractor, along with a 15% contingency of \$10,550.70 for a total of \$80,888.70.

Fiscal Note: Funding in the amount of \$70,338 plus a 15% contingency amount for a total of \$80,888.70 is available in the adopted Capital Improvement Plan.

RECOMMENDATION

The City Commission: 1) authorize the City Manager to execute Change Order Number One for the construction of a roundabout at the intersection of SW 6th Street and SW 2nd Avenue; and 2) modify to increase the current purchase order by an amount not to exceed \$80,888.70.

100007_Change Order_20100603.pdf

100007_Spreadsheet_20100603.pdf

100007_MOD Spreadsheet_20100617.pdf

100014.

Fourth Extension to the Contract for Professional Environmental Engineering Services for FY 2010 (B)

This item is a request to extend the Contract for Professional Environmental Engineering Services with Water & Air Research, Inc.

Explanation: The contract dated May 2, 2006, First Extension dated August 16, 2006, First Amendment dated October 9, 2006, Second Extension dated January 24, 2008

and Third Extension August 19, 2008 with Water & Air Research, Inc. expired on September 30, 2009. This vendor has responded to the City's requests for services promptly and their services have been reliable and accurate.

The contract allows for five one-year extensions. This is the fourth request for an extension to each contract.

Fiscal Note: Funding sources will be identified as needed through the Public Works Department fiscal year operating budget and the City's Capital Improvement Plan capital project accounts.

RECOMMENDATION

Recommended Motion: The City Commission: 1) authorize the City Manager to execute the Fourth Extension to the contract with Water & Air Research, Inc. for Professional Environmental Engineering Services, extending the term of the contract from October 1, 2009 to September 30, 2010.

100014_Extention Contract_20100617.pdf

10024.

U.S. Department of Justice Bulletproof Vest Partnership (NB)

Explanation: The U.S. Department of Justice, Bureau of Justice Assistance, invited the City of Gainesville to apply for \$19,008 in grant funding through the Bulletproof Vest Partnership Program. The program reimburses law enforcement agencies for up to fifty percent (50%) of the total costs of purchasing bulletproof vests to replace zylon bulletproof vests. The amount the City of Gainesville was eligible to apply for was established by the U.S. Department of Justice. The City submitted an application to the U.S. Department of Justice for the designated amount of grant funding.

The U.S. Department of Justice approved the application on May 27, 2010. This will allow the City of Gainesville to purchase up to \$38,016 in bulletproof vests and be reimbursed for fifty percent (50%) of the cost, up to a maximum of \$19,008.

Fiscal Note: The City of Gainesville will be able to purchase up to \$38,016 in bulletproof vests and be reimbursed for fifty percent (50%) of the cost, up to a maximum of \$19,008. The fifty percent (50%) of funding from the Gainesville Police Department is requested to come from Departmental Forfeiture Funds. The 50% match in the amount of \$19,008 for this expenditure is available in the State Law Enforcement Contraband Forfeiture Trust Fund and is allowable per Florida State Statute 932.7055. The balance in the account is \$102,065.

RECOMMENDATION

The City Commission authorize the City Manager to: 1) accept the \$19,008 in grant funds and the match of \$19,008 from forfeiture; and 2) execute any other necessary documents, pending review by the City Attorney as to form and legality.

100034.**Human Resources: Policy E-8, Hours of Work, Overtime and Timekeeping (B)**

Explanation: Policy E-8, Hours of Work, Overtime and Timekeeping. This policy replaces Policy 15, Hours of Work and Overtime, separating policy from procedure and adopting basic Federal and State overtime provisions. This policy further allows Charter Officers to set administrative procedures for compliance with Federal and State overtime provisions.

Fiscal Note: No impact.

RECOMMENDATION

Approve Human Resources Policy E-8, Hours of Work, Overtime and Timekeeping

100034_Policy E-8_20100617.pdf

10034_Policy 15_20100617.pdf

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS**100046.****Contract for Customer Satisfaction Research Services (NB)**

Staff recommends award of a contract with RKS Research and Consulting for customer satisfaction research services.

Explanation: RKS Research and Consulting has been providing customer satisfaction research and measurement since 2002. RKS was awarded the contract as the best evaluated proposer based upon established award criteria. The customer satisfaction scores provided by RKS are used as a Key Performance Indicator (KPI) for measuring performance at Gainesville Regional Utilities.

The services RKS provides include monitoring GRU's customer satisfaction performance in the areas of electricity, natural gas, water and wastewater service, billing and payment, pricing, efficiency and conservation, customer service, company image, communications and other services from the perspective of residential and business customers. Uniquely, they also survey residential and business customer's importance rankings and expectations to measure gaps between those expectations and GRU's performance.

The research results also allow GRU to evaluate proposed enhancements to existing programs and assess opportunities to introduce new products and services.

RKS has over one hundred utility clients including Colorado Springs, Portland GE, JEA, and Sacramento Municipal Utility District. RKS' officers are Florida based, and have maintained the same rates for GRU for the past nine years. RKS is extending a continuation of the same pricing under a new contract while adding, as in the past year, the additional measurements of importance and expectation measurement.

RKS is the only marketing research firm with experience monitoring utility

performance-importance-expectations gaps and in matching those gaps with best practice leaders in other industries. Providing customized changes to questionnaires each month with no extra programming, data analysis or administration fees.

Fiscal Note: Funds for these services in the FY 2010 budgets and will be requested in subsequent year budgets.

RECOMMENDATION

The City Commission 1) authorize the General Manager, or his designee, to negotiate and execute a three-year contract with RKS Research and Consulting, a specified source, for customer satisfaction research services, in an amount not-to-exceed \$140,000 per year, subject to the approval of the City Attorney as to form and legality, and 2) approve the issuance of purchase orders to RKS Research and Consulting for these services in amounts not exceeding \$140,000 per year, pending final appropriation of funds.

CITY ATTORNEY, CONSENT AGENDA ITEMS

100028.

JOSE RODOLFO RAMIREZ AND LUISANA RAMIREZ VS. CITY OF GAINESVILLE D/B/A/ GAINESVILLE REGIONAL UTILITIES; EIGHTH JUDICIAL CIRCUIT, COURT CASE NO. 2010-CA-2640 (B)

Explanation: On May 19, 2010, the City of Gainesville was served with a Summons and Complaint. The Plaintiff alleges that he was subjected to a gas explosion while working at a construction site due to GRU allegedly failing to mark utility service lines. He claims to have sustained bodily injury and medical expenses. Plaintiff is seeking money damages, prejudgment interest, and attorney's fees and costs. The Plaintiff's wife is alleging a consortium claim against the City.

RECOMMENDATION

The City Commission authorize the City Attorney to represent the City of Gainesville in the case Jose Rodolfo Ramirez and Luisana Ramirez vs. City of Gainesville, d/b/a Gainesville Regional Utilities; Eighth Judicial Circuit, Court Case No. 2010-CA-2640.

100028_Jose Ramirez_20100617.pdf

CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS

EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS

COMMITTEE REPORTS, CONSENT AGENDA ITEMS

COMMUNITY REDEVELOPMENT AGENCY, CONSENT ITEMS**END OF CONSENT AGENDA****ADOPTION OF THE REGULAR AGENDA****CHARTER OFFICER UPDATES****CLERK OF THE COMMISSION****100037.****School Board Joint Meeting (NB)****RECOMMENDATION**

The City Commission discuss setting the next joint meeting with the Alachua County School Board.

100050**Appointments to City Commission Advisory Boards and Committees (B)****RECOMMENDATION**

The City Commission consider making an appointment to the Historic Preservation Board, appointments to the Citizens' Advisory Committee for Community Development, and a non-student appointment to the Student Community Relations Advisory Board.

100050_appointments_20100617.pdf

CITY MANAGER**100029.****Ranking of Firms for Construction of the City of Gainesville Fire Station 8 and NW 42nd Ave Roadway (B)**

This is a request for the City Commission to approve staff's ranking of the firms as listed below for construction of the City of Gainesville Fire Station 8 and NW 42nd Avenue Road and direct the City Manager to negotiate and execute a contract and any subsequent amendments with the first ranked firm. If a contract cannot be executed with the first ranked firm negotiations will continue with the next ranked firm until a contract can be executed.

Explanation: On March 17th, 2010, the City's Purchasing Division received eight (8) Best Evaluation Bid (BEB) proposals from construction firms for the construction of the 42nd Avenue road connection to the station and the development and construction of Fire Station 8 property per the plans and specifications of the

architect. Department staff has evaluated the qualifications, proposals of the firms, and prices and is recommending the following ranking:

- 1) MM Parrish Construction Company
- 2) Mandese White Construction, Inc.
- 3) Scherer Construction of North Florida, LLC
- 4) Ethridge Construction of Marion County, Inc.
- 5) Boran Craig Engel Construction, Inc.
- 6) Slack Construction, Inc.
- 7) Bradanna, Inc.
- 8) MDM Services, Inc.

On April 8, 2010, Mandese White Construction, Inc., one of the companies responding to the BEB, filed a protest regarding Bid No. FMGT 100030-DH for the construction of Fire Station #8. The letter from Mandese White Construction, Inc. outlining the details of the protest is Attachment #1. Pursuant to the bid protest procedures, a hearing was held by the department head designee on April 21, 2010, to allow Mandese White Construction, Inc. to present information in support of its protest. Staff's comments related to the protest letter and the facts represented in support of the letter at the April 21st hearing is attached (Attachment #2). This document was provided to Mandese White Construction, Inc. upon their request. The City Manager, following bid protest procedures, sent a letter to Mandese White Construction, Inc. denying the protest and affirming that the ranking remain unchanged (Attachment #3). On May 12, 2010, Mandese White Construction, Inc. hand delivered to the Purchasing division a letter appealing the denial (Attachment #4). On May 13, staff met to prepare a response to the letter of appeal (Attachment #5).

Fiscal Note: Funds are available through a 2005 Capital Improvement Revenue bond.

RECOMMENDATION

The City Commission: 1) deny Mandese White Construction Inc.'s appeal; 2) approve staff's recommended ranking of the firms; and 3) authorize the City Manager to negotiate and execute a contract and any subsequent amendments with the first ranked firm. If a contract cannot be executed with the first ranked firm negotiations will continue with the next ranked firm until a contract can be executed.

Alternative Recommendation: The City Commission not approve staff's recommended ranking.

100029_Attachments_20100617.pdf

100029_Bid Docs_20100617.pdf

GENERAL MANAGER FOR UTILITIES

100048.

Sweetwater Branch/Paynes Prairie Sheetflow Restoration Project (B)

A presentation will be made of 30% design plans for the Public Use

Facilities at the Paynes Prairie Sheetflow Restoration Project in accordance with Vertical Capital Projects procedure. A proposal to explore the feasibility of privatization of the operation of the public use facilities will be discussed.

Explanation: The Sweetwater Branch/Paynes Prairie Sheetflow Restoration project is currently in the design phase. This project will provide substantial benefits in improving water quality, restoring wetlands and meeting the City's (GRU and stormwater utility) regulatory requirements. The project plan also includes a public access component that will provide opportunities for passive recreation including hiking, bird watching and nature photography. Initial construction will include Phase I public use improvements that will include; parking, restroom/entrance, trails, boardwalks and interpretive signage. Architectural plans are also being developed for future public use facilities that will include a security residence, solar viewing tower and visitor center.

Two neighborhood workshops have been held to present conceptual and preliminary plans to neighboring property owners and to seek comments. The comments received have been overwhelmingly supportive. One additional neighborhood workshop will take place to present plans to neighboring property owners.

Staff proposes to investigate the possibility of privatizing the operation and maintenance of the public use facilities. It may be possible to operate the park in a manner similar to the Kanapaha Botanical Gardens model. Staff proposes to issue a Request for Letters of Interest from parties potentially interested in operating the wetland park. If privatization is determined to be feasible, the respondents may be invited to join the design team and help finalize the design of the public use facilities.

Fiscal Note: The initial cost for constructing the Paynes Prairie Sheetflow Restoration water quality and Phase I public use facilities is estimated at approximately \$20 million. Funding for initial construction is included in the Water Wastewater Capital Improvements budget, and in the Public Works Stormwater Capital Improvements budget. Grant funding is also being obtained from outside funding partners. Funding needed for future phases including the security residence, solar viewing tower and visitor center is estimated at approximately \$2.6 million, and is not included in current budgets.

RECOMMENDATION

The City Commission: 1) hear a presentation from staff; and 2) authorize advertisement for Request Letters of Interest to provide operation of the public use facilities at the Paynes Prairie Sheetflow Restoration site.

100048presentation_20100520.pdf

100051.

Proposed Regulations and the Potential Impact on Customer Rates (B)

This will be a presentation from staff on proposed regulations and potential impacts to customer rates.

Explanation: Staff will discuss proposed state and federal legislation and regulations including but not limited to: Cap and Trade (to reduce carbon emissions); Mercury Rules (to limit mercury from coal- and oil-fired power plants); Numeric Nutrient Criteria (EPA proposed nutrient limits on Florida's water bodies such as lakes, streams and canals); St. John's River Water Management District (SJRWMD) water supply planning and conservation measures; and Springs legislation (to protect Florida's Springs).

Fiscal Note: None at this time. Fiscal impacts presented during the presentation will be forward looking estimates based on staff's analysis of the proposed legislation and therefore subject to change.

RECOMMENDATION

The City Commission hear a presentation on the potential impacts of proposed regulations. No City Commission action is required at this time.

100051_MOD Potential Impacts_GRU RATES.pdf

CITY ATTORNEY

090657.

PROHIBITING SMOKING AT RTS BUS STOPS AND BUS SHELTERS (B)

Explanation: SUMMARY

The City Commission, at its meeting of December 17, 2009, requested the City Attorney to research and opine whether the City may prohibit smoking at RTS bus stops and shelters within the corporate limits. After reviewing the legislative history of the Florida law and researching general law, it is the opinion of the City Attorney that the City may prohibit smoking at RTS bus stops and bus shelters that are located within the City. The City Attorney has consulted with the City Manager and the Director of RTS who concur with this recommendation. Additionally, the RTS Advisory Board, after hearing a presentation from the City Attorney and reviewing the draft ordinance, also concurs with this recommendation.

BACKGROUND INFORMATION

At the December 17, 2009 City Commission meeting, the City Commission requested that the City Attorney research whether the City may prohibit smoking at City bus stops and bus shelters. The City Commission also sent the referral to the Advisory Board of RTS for review and a recommendation. In Florida, a municipality is given broad authority to enact ordinances under its municipal home rule powers, to legislate concurrently with the Legislature on any subject not expressly preempted to the State. See Wyche v. State, 619 So.2d 231, 237-38 (Fla. 1993); City of Miami Beach v. Rocio Corp., 404 So.2d 1066, 1069 (Fla. 3d DCA 1981); Barragan v. City of Miami, 545 So.2d 252, 254 (Fla. 1989). Express preemption requires a specific statement; the preemption cannot be made by implication, nor by inference. See Fla. League of Cities, Inc. v. Dep't of Ins. & Treasurer, 540 So.2d 850, 856 (Fla. 1st DCA 1989). However, the preemption need not be explicit so long as it is clear that the

legislature has clearly preempted local regulation of the subject. See Barragan, 545 So.2d at 254 (citing Tribune Co. v. Cannella, 458 So.2d 1075 (Fla. 1984)).

The preemptory language of Florida Statute 386.209 indicates the intent to preempt the regulation of smoking in indoor workplaces. Florida Statute 386.209: Regulation of smoking preempted to state.-"This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject." This statute makes an express statement of preemption. The title uses broad language by saying "regulation of smoking preempted to state." The title is only one indicator of the legislature's intent. The legislature's intent is explained in 386.202 which states "The purpose of this part is to protect people from the health hazards of secondhand tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution. It is the intent of the Legislature to not inhibit, or otherwise obstruct, medical or scientific research or smoking cessation programs approved by the Department of Health." Section 20, Art. X of the State Constitution is entitled "Workplaces without tobacco smoke." The legislative intent therefore, seems to be limited to workplaces.

Applying the rules of statutory construction, the language of Fla. Stat 386.209 specifically says "this part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject." By using the words "this part," the part being referred to is Part II of Fla. Stats. Chapter 386, which has been divided into two parts. Part II being entitled "Indoor Air: Tobacco Smoke."

Additionally, a ban on smoking at all RTS bus stops and bus shelters will not conflict with the Florida Clean Indoor Air Act. A municipal ordinance that regulates smoking at bus stops is outdoor regulation that does not conflict with Florida's Clean Indoor Air Act. The only potential conflict that could arise is a municipal ordinance that would also affect an area within 1000 feet of a school, however, any ordinance could defer to the Act in this instance. In other words, to the extent that bus stops and shelters are located within 1000 feet of school properties, the provisions of Fla. Stat. §386.212 would apply to prohibit smoking.

The Attorney General opined that the regulation smoking, wherever it occurs, is preempted to the state. See AGO 2005-63. The City Attorney's Office disagrees with the Opinion of the Attorney General; the Attorney General's opinion fails to consider the entire language of the preemptory provision. The Attorney General fails to take into consideration the first words of the preemption provision, which uses the "this part" language. As explained earlier, reading the statute's provision as a whole would limit the scope of preemption to "this part"-the part being Part II on "indoor air: tobacco smoke." Furthermore, as the Attorney General himself points out, one can also refer to the legislature's statement of intent in Fla. Stat. §386.202 which also seems to limit the scope of regulation to indoor air given the purpose of implementing s.20, Art. X of the State Constitution.

THE ORDINANCE

The proposed ordinance prohibits smoking at or within 20 feet of any RTS bus stop or bus shelter. Although the Surgeon General has stated that there is no safe level of exposure to secondhand smoke (<http://www.surgeongeneral.gov/library/secondhandsmoke/report/>), studies have shown that at a distance of 20 feet, secondhand smoke concentration levels are generally no greater than background levels (https://webadmin.pfizer.com.mx/files/crossContent/ccFile_988.pdf). Additionally, several other cities have enacted no-smoking ordinances which ban smoking within 20 feet of bus stops. Note: The cities of Berkley and Pasadena in California, as well as Glendale, Arizona have all successfully enacted no-smoking ordinances using a distance of 20 feet.

The ordinance does not apply to pedestrians, drivers or passengers of a motor vehicle, non-motorized vehicle, or bicycle on a public street, sidewalk or thoroughfare while actively passing on the way to another destination. Additionally, the ordinance does not apply to persons who are lawfully occupying private real property within 20 feet of a RTS bus stop or bus shelter. The City Manager is authorized to install appropriate signage consisting of "No Smoking" or "Smoke Free" language at all RTS bus stops and bus shelters. The provisions of the ordinance will be enforced by civil citation and a fine of \$75.00.

The City Commission should be aware that the ordinance would only apply to RTS bus stops and bus shelters within the Gainesville city limits. If the ordinance is adopted, the City Commission may request the Board of County Commissioners of Alachua to adopt a similar ordinance that would cover RTS bus stops and bus shelters outside the city of Gainesville.

If this ordinance is enacted into law, the City should engage in a public information campaign to inform the citizens and RTS riders of the new law. Additionally, the City may offer a 30 day grace period before enforcing the ordinance in order to allow those affected by the new law to become aware of its operation.

RTS ADVISORY BOARD MEETING

At the May 26, 2010 RTS Advisory Board meeting the City Attorney presented to the Board the City Attorney's opinion regarding the legality of the proposed ordinance and explained how the proposed ordinance would operate. A Prevention Specialist from the Florida Department of Health also spoke at this meeting and expressed her endorsement for the proposed ordinance and the positive public health implications of adopting such an ordinance. Although a quorum was not present at this meeting, the three members of the RTS Advisory Board who were present all expressed their support for the proposed ordinance. (A copy of the draft minutes of the May 26, 2010 RTS Advisory Board meeting are attached.) Another member has subsequently expressed support of the ordinance via e-mail.

CONCLUSION

A municipal ordinance prohibiting smoking at City bus stops and bus shelters within the corporate limits of the City does not conflict with the Florida Clean Indoor Air Act which regulates indoor air and workplaces. City bus stops and bus shelters are outdoor facilities and are limited public places for use by RTS patrons. Therefore, an ordinance regulating smoking at RTS bus stops and bus shelters is outside of the scope of the statute and does not appear to be preempted or conflict with state law.

Therefore, the City, may, in the opinion of the City Attorney, prohibit smoking at RTS bus stops and bus shelters.

RECOMMENDATION

The City Commission: 1) hear a presentation that includes the recommendation of four members of the RTS Advisory Board; and 2) authorize the City Attorney to prepare, and the Clerk of the Commission to advertise, an ordinance amending Article IV, Chapter 11.5, Code of Ordinances prohibiting smoking at all RTS bus stops and bus shelters.

Legislative History

12/17/09 City Commission Referred (6 - 0 - 1 Absent) Regional Transit System
Advisory Board

090657_bus stop smoking ban_20100617.pdf

090657_draft ordinance_20100715.pdf

090657_ordinance_20100805.pdf

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR

COMMITTEE REPORTS (PULLED FROM CONSENT)

ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)

OUTSIDE AGENCIES

MEMBERS OF THE CITY COMMISSION

100031.

Commissioner Jack Donovan - Resignation (B)

RECOMMENDATION

The City Commission accept Commissioner Donovan's resignation and discuss replacement process.

100031_resignation_20100617.pdf

COMMISSION COMMENTS (if time available)

RECESS - 5:23 PM

RECONVENE - 6:04 PM

PLEDGE OF ALLEGIANCE (5:30pm)

PROCLAMATIONS/SPECIAL RECOGNITIONS

100027.

Parks and Recreation Month - July 2010 (B)

RECOMMENDATION

Public Recreation and Parks Board Vice Chair Todd Chase and Nature Centers Commission Chair Amy Carpus to accept the proclamation.

100027_Parks&Rec_20100617.pdf

CITIZEN COMMENT

PUBLIC HEARINGS

091005.

Restricted Decal Parking Area Zone 1 Expansion (B)

This item is a request to expand the existing Zone 1 restricted decal parking area to the east along SW 5th Avenue to cover the area in the 900 block. The existing Zone 1 Decal Parking Area is bounded by West University Avenue, SW 8th Avenue, SW 10th Street and SW 13th Street.

Explanation: The residents that reside contiguous to Decal Parking Area Zone 1 along SW 5th Avenue and immediately east of SW 10th Street have requested that the City of Gainesville study their area for a possible decal parking area. Their request is due to the lack of available parking for the residents. Decal Parking Area Zone 1 is in effect weekdays from 8:00 a.m. to 4:00 p.m. Public Works Department staff conducted a study in accordance with Gainesville Code of Ordinances, Chapter 26, Section 26-117(a), the criteria and procedures for establishing controlled vehicular parking areas. The Ordinance requires that the parking occupancy rate be more than 50%. The study revealed that the occupancy rate was greater than 80%.

Based upon the results of this study, the City Manager authorized staff to conduct a ballot of the property owners in the area. For approval, a majority of the registered property owners must vote in favor of the petition. For the ballot, 4 registered property owners were mailed ballots and 3 were returned (75.0%) voting in favor of expanding the existing Decal Parking Area Zone 1.

The next step in the process is to hold a public hearing before the City

Commission with notice to the registered property owners in the affected area. After the public hearing, the program can be implemented if the City Commission finds that the area meets the requirements of Chapter 26, Section 26-117(a) of the Code of Ordinances and designates the area of controlled vehicle parking.

Fiscal Note: Funding in the amount of \$250 for materials and supplies is available in the Public Works FY 2010 operating budget.

RECOMMENDATION

The City Commission: 1) hold a public hearing; 2) consider the findings of the study, the recommendation of the City Manager, the results of the vote of the property owners, and any other information the Commission deems relevant; and 3) decide whether to approve the expansion of Zone 1.

091005_Spreadsheet_20100617.pdf

091005_Map_20100617.pdf

091005_Public Hearing AD_20100617.pdf

091005_Affidavit_20100617.pdf

TRANSMITTAL HEARING

090741.

LAND USE CHANGE – 4700 BLOCK OF ARCHER ROAD (B)

Ordinance No. 0-10-07, Petition PB-09-143LUC

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Plan and Map; changing the land use categories of certain property from the Alachua County land use category of “Low Density Residential (1-4 DU/acre)” to the City of Gainesville land use categories of “Conservation”, and “Residential Low-Density (up to 12 units per acre)” and by overlaying the “Planned Use District” category over certain portions of the property, as more specifically described and shown in this ordinance, consisting of approximately 28.98 acres located in the vicinity of the 4700 block of Archer Road, north side; providing for conditions; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: STAFF REPORT

The property associated with this petition was presented to the City Commission on June 25, 2009 for a multi-family development at a density of up to 30 units per acre. After reviewing the request, Petition PZ-09-36 ZON, the City Commission determined that the proposal was inconsistent and incompatible with the comprehensive plan and was inclined to deny the petition but instead offered an option for an alternative proposal that would be more compatible with development west of I-75 and consistent with current market demands. The applicant subsequently withdrew the petition.

The applicant resubmitted a large-scale land use amendment to change the

Future Land Use category from Alachua County Low Density Residential (1-4 DU/acre) to City of Gainesville Planned Use District and Conservation (CON). The proposal includes five parcels totaling 28.98 acres which were annexed into the city on February 5, 2009. The property is located west of I-75, approximately 2,500 feet west of I-75 on the north side of Archer Road between SW 47th Street and SW 50th Street. Both SW 47th Street and SW 50th Street are private roads currently serving existing developments; SW 47th Street is a 20-30 foot wide private road and SW 50th Street is an unpaved narrow road that accesses the northwestern portion of the site.

The area proposed for Conservation Land use is approximately 5.71 acres lying in the northwestern portion of the site. It abuts the Lake Kanapaha conservation/recreation area to the west, and was included as part of the Alachua County Strategic Ecosystem designation. The remaining 23.27 acres is proposed as a Planned Use District and occupies the eastern and southern portions of the property which abuts SW Archer Road and SW 47th Street. That portion is primarily undeveloped except for a few abandoned single-family dwellings in very dilapidated condition. The property is surrounded by an established Mobile Home development to the north, condominiums to the east and several older, single-family dwellings and vacant lots to the south.

The Plan Board reviewed the applicant PUD land use proposal which included 60,000 square feet of floor area to accommodate an Assisted Living Facility with 300 beds; a 75,000 square foot Skilled Nursing Facility and 15,000 square feet for medical and office uses, which are strictly supportive of the institutional/residential portions of the development. Staff recommended to the Plan Board a maximum of 160,000 square feet of floor area for the Skilled Nursing Facility and Assisted Living Facility with a maximum of 400 beds and 20,000 square feet of Office and Medical uses as support uses for the main institutional residential uses. During the Plan Board hearing the applicant asked for additional square footage for office type uses. The plan board expressed concerns about the difference in the intensity of development presented by staff and the new numbers presented at the meeting. The Plan Board debated the issue and approved staff recommendations. The board asked that the differences in numbers be resolved prior to the City Commission review. The board also asked that the necessary right-of-way requirement for SW 47th Street be resolved prior to City Commission review. The Plan Board reviewed the petition and recommended approval with all staff conditions and a modification of conditions 6 and 9, and added a new Condition 11.

After the Plan Board meeting, the applicant worked with staff to develop the following intensity of development: a Skilled Nursing Facility with a maximum of 180 beds; an Assisted Living Facility with a maximum of 130 beds, and a maximum of 75,000 square feet of floor area for medical and general office uses. Staff recommends approval of this development intensity.

Public notice was published in the Gainesville Sun on November 19, 2009. The Plan Board held a public hearing on December 7, 2009.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

Following second reading, the Plan amendment will not become effective until the DCA issues a final order determining the adopted amendment to be in compliance in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, or until the Administration Commission (Governor and Cabinet) issues a final order determining the adopted amendment to be in compliance.

RECOMMENDATION *The City Commission adopt the proposed ordinance on first reading.*

Legislative History

2/18/10 City Commission Approved (Petition) as revised by the City Plan Board, as amended (6 - 0 - 1 Absent)

090741_cpb recommended conditions modified_20100218.pdf
 090741A_staff report_20100218.pdf
 090741B_map#1_land use_20100218.pdf
 090741C_g'ville council on aging cpa report_20100218.pdf
 090741D_legal description_petitioner application_20100218.pdf
 090741E_map_proposed villiages of kanapha cpa rezoning_20100218.pdf
 090741F_neighborhood wkshop info_20100218.pdf
 090741G_neighborhood meeting minutes_20100218.pdf
 090741H_cpb minutes_20100218.pdf
 090741J_petitioner ppt_20100218.pdf
 090741I_staff ppt_20100218.PDF
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 090741_draft ordinance_20100617.pdf
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RESOLUTIONS- ROLL CALL REQUIRED

091058.

Resolution Amending the VantageCare Retirement Health Savings Plan Program (B)

Explanation: Included in the Communications Workers of America's (CWA) labor agreements is a provision to amend the Retiree Health Savings Plan to increase the contribution to 1.5% of their base pay rate. This contribution, by a mandatory salary reduction, will be made to each covered members individual account beginning the first pay period after July 1, 2010. The CWA is utilizing their

general wage increase to fund the increased contribution.

This change only effect those employees covered by the CWA Supervisory and CWANon-supervisory bargaining units and is a result of the normal labor negotiating process. This represents the first increase in any mandatory contribution since the Retiree Health Savings Plan was first adopted in 2002. Covered members can use the funds available in their individual account to help pay for the cost of medical, dental and vision expenses after they meet the Plan's benefit eligibility criteria as outlined in the plan document and the attached plan amendment. Coupled with the City Retiree Health Plan, these funds will help members cover the cost of post-employment health care needs.

Fiscal Note: The employer's contributions, via a mandatory salary reduction, have been included in the Fiscal Year 2010 Budget. It is also included in the 2011-2012 personal services projections for CWA covered employees

RECOMMENDATION *The City Commission adopt the proposed resolution.*

091058_Resolution_20100617.pdf

091058A_Adoption Agreement_20100617.pdf

100026

Resolution for a Joint Participation Agreement - Service Development Funds for Regional Transit Service (RTS) Route 25 Demonstration Project (B)

This item is a request for a Resolution authorizing the City Manager to execute a Joint Participation Agreement between the City of Gainesville and the Florida Department of Transportation (FDOT) to receive Service Development Funds for the operation of new Route 25 Demonstration Project.

Explanation: FDOT allocates service development funds to transit agencies each year. The allocations are given at FDOT discretion on a competitive basis for agency projects that meet FDOT Service Development Grant (SDG) criteria.

This new fixed-route, Route 25 Demonstration Project, will provide transit service from the Gainesville Regional Airport to the University of Florida (UF) via State Road 24 (Waldo Road). This route will provide service every 60 minutes during peak hours and serve as a major connector between Campus and City routes. Currently, there is no transit service to the airport. The objective of the new route is: 1) to encourage choice riders to use public transportation when traveling to and from the UF campus, from the UF campus to Downtown, from Downtown to the airport, and from the UF campus to the airport; 2) to provide passengers with convenient transportation to the Gainesville Regional Airport; 3) to promote multimodal transportation activities at the airport; and 4) to connect UF Eastside and main campus. Route 25 is a demonstration project with funding from FDOT and UF for one year.

FDOT requires the governing board of each public transit system to adopt a resolution authorizing the acceptance of these funds.

Fiscal Note: The annual cost is \$150,000 and initially we will use current employees; although, one FTE (Transit Operator) will be needed. This Joint Participation Agreement requires the City of Gainesville to provide a 50/50 match that will be funded by the University of Florida for one year. Funding needs to be identified after the second year if the project is successful.

RECOMMENDATION

The City Commission: 1) adopt the Resolution; and 2) authorize the City Manager to execute a Joint Participation Agreement between the City of Gainesville and the Florida Department of Transportation (FDOT) to accept the allocation for the operation of Route 25 Demonstration Project, subject to approval by the City Attorney as to form and legality.

100026_Map_20100617.pdf

100026_Resolution_20100617.pdf

100026_resolution_20100617.pdf

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

091014.

AMENDMENT OF PS ZONING - ALACHUA COUNTY OPERATIONS AND ADMINISTRATION FACILITIES SITE (B)

Ordinance No. 0-10-18, Petition No. PB-10-17 PSZ

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas on certain property with the zoning category of "PS: Public services and operations district" within the City, as more specifically described in this ordinance, commonly known as the Alachua County Operations and Administration Facilities site located in the vicinity of 913 Southeast 5th Street; providing for uses permitted by right; providing for dimensional requirements and other development regulations; providing for the expansion of the Supervisor of Elections Operations and Storage Facility; approving a preliminary development plan; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: COMMUNITY DEVELOPMENT STAFF MEMORANDUM

The Alachua County Operations and Administration Facilities site consists of 6.3 (MOL) acres. The land use designation is PF (Public Facilities), while the zoning designation is PS (Public services and operations district) for police facilities. The Alachua County Board of County Commissioners requests that the City of Gainesville adopt new permitted uses and dimensional requirements for this site, since it no longer serves as the Alachua County Sheriff's Office Complex. The new permitted uses and dimensional requirements are addressed in the associated Public Services Zoning Report and on the associated preliminary development plan.

The Supervisor of Elections Operations and Storage Facility is one of the proposed permitted uses on the site. Expansion of the facility is subject to the

approval of the associated preliminary development plan, as well as staff approval of a final development plan. The County must comply with a federal-mandated completion date for expanding this facility to address ADA and other requirements.

The Alachua County Operations and Administration Facilities site allows the County to serve the public at a location that is near other County facilities, which is consistent with the purpose and objectives of the PS zoning district. The proposed permitted uses on the site are representative of the County's administrative, operational and governmental functions, to which the PF land use classification applies. Although the site has petroleum contamination due to fuel pumps used at the Alachua County Sheriff's Office Complex, development activities are subject to the review and approval of the Alachua County Environmental Protection Department.

Public notice was published in the Gainesville Sun on April 6, 2010. Letters were mailed to surrounding property owners on April 6, 2010.

The City Plan Board considered Petition PB-10-17 PSZ with the associated Public Services Zoning Report and preliminary development plan at a public hearing held April 22, 2010. By a vote of 6 - 0, the City Plan Board approved the petition with staff conditions, and found the petition consistent with the Comprehensive Plan and the Land Development Code.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

091014_staff report_20100617.pdf
 091014A_comp plan GOP_20100617.pdf
 091014B_land development code_20100617.pdf
 091014C_supplement doc_20100617.pdf
 091014D_application and neighbhd workshp_20100617.pdf
 091014E_technical review committe_20100617.pdf
 091014F_100422 cpb minutes draft_20100617.pdf
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 091014H_petitioner ppt_20100617.PDF
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ORDINANCES, 2ND READING- ROLL CALL REQUIRED

080579.

LANDLORD PERMIT APPLICATION FEES (B)

Ordinance No. 0-10-50

An ordinance of the City of Gainesville, Florida, amending Appendix A, City of Gainesville Code of Ordinances, relating to late fees for landlord permit initial applications; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: The City Commission at its April 14, 2010 meeting, authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending Appendix A, Schedule of Rates, Fees and Charges. This ordinance implements the recommendation of the Community Development Committee to implement a new tier of late fees for landlord permit applications that are received 1-15 days late, set at 50% of the current 30-day late fee. The new tier bifurcates the existing late fee in effect for one business day to 30 calendar days late tier to add the 16-30 calendar days late tier.

This ordinance requires two readings. Should the Commission pass this ordinance on first reading, second and final reading will be held on June 17, 2010.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

11/6/08	City Commission	Referred (7 - 0)	Community Development Committee
3/26/09	Community Development Committee	Approved as Recommended	
1/12/10	Community Development Committee	Approved as shown above (See Motion)	
4/15/10	City Commission	Approved as Recommended (6 - 0 - 1 Absent)	
6/3/10	City Commission	Adopted on First Reading (Ordinance) (7 - 0)	

080579_Late LLP Memo_20090326.pdf
 080579_Ordinance Excerpt_20090326.pdf
 080579_Memo_20100112.PDF
 080579_CDC Minutes_20100415.pdf
 080579_Draft Ordinance_20100603.pdf
 080579_ordinance_20100617.pdf

090743.

FOOD DISTRIBUTION CENTERS FOR THE NEEDY (B)

Ordinance No. 0-10-04, Petition PB-09-153-TCH

An ordinance of the City of Gainesville, Florida, amending Section 30-111 of the Land Development Code relating to food distribution centers for the needy; by allowing food distribution centers for the needy to exceed the daily meal limitations on the federal holidays designated as Thanksgiving Day and Christmas Day and on one additional day to be selected by the food distribution center; by imposing a permit fee, requirements and conditions on the holiday meal service; by adding a reference to the permit in Appendix A of the City Code of Ordinances; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

On November 5, 2009, the City Commission discussed options for allowing holiday meal service for the needy in the City. Citizens and representatives of the St. Francis House expressed concern with the 130 maximum daily meal limit established in the Land Development Code. As a short term solution, the City Commission agreed to open up the MLK Center for meal service during the 2009 Thanksgiving holiday and authorized staff to initiate a petition to allow expanded meal service on certain holidays. Specifically, the City Commission directed staff to initiate a petition to the Plan Board amending section 30-111 of the Land Development Code related to allowing food distribution centers for the needy to exceed the established 130 daily meal limitation on three (3) national holidays and to include any proposed amendments to other relevant sections of the code.

On December 7, 2009, the Plan Board heard the petition and received comments from the public. The Plan Board, by a vote of 6-0, recommended the City Commission approve no limit on the number of meals that can be served for all Federal Holidays, with a further recommendation to the City Commission that they rescind the 24-hour, 130 meal limit altogether. The Plan Board also directed staff to develop a proposal to: 1) identify adequate locations for food service of the needy at indoor locations in our community; 2) bring together individuals and groups that provide such services (indoor or outdoor) for the purpose of locating those services indoors; and, 3) regulate for actual impacts (such as loitering, behavior, management practice, or others identified). It is the opinion of the staff that the work that the Plan Board directed staff to complete was done as part of the planning for the One-Stop Center and does not need to be repeated.

On February 18, 2010, the City Commission heard the petition and, by a vote of 7-0, approved the petition with a modification that the 130 daily meal limitation is lifted on the federal holidays designated as Thanksgiving Day and Christmas Day and on one additional day to be chosen by the food distribution center.

CITY ATTORNEY MEMORANDUM

Should this ordinance pass on first reading, second and final reading will be held on Thursday, June 17, 2010.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

2/18/10 City Commission Approved as shown above, (Main Motion) (7 - 0)

6/3/10 City Commission Adopted on First Reading (Ordinance) (6 - 1)

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090743A_US office of pers mgmt oper status schd_20100218.pdf

090743B_sec 30-111 food dist ctrs_20100218.pdf

090743C_cpb mintues_20100218.pdf

090743_HENRY_20100218.pdf

090743_JACKSON_20100218.pdf

090743_draft ordinance_20100603.pdf

090743_ordinance_20100617.pdf

091041.**2011 CITY COMMISSION ELECTION DATES (B)****Ordinance No. 0-10-17**

An ordinance of the City of Gainesville, Florida, setting March 15, 2011 as the date for the 2011 regular city election and April 12, 2011 as the date for the 2011 run-off election, if necessary; setting the dates for qualifying for the 2011 regular election; providing a severability clause; providing a repealing clause; and providing an immediate effective date. (B)

Explanation: The City Commission, at its meeting of May 17, 2010, authorized the City Attorney's Office to draft an ordinance setting the 2011 regular city election and run-off election dates.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

6/3/10 City Commission Adopted on First Reading (Ordinance) (7 - 0)

091041_2011 Election Dates Ordinance_20100603.pdf

091041_ordinance_20100617.pdf

PLAN BOARD PETITIONS**DEVELOPMENT REVIEW BOARD PETITIONS****SCHEDULED EVENING AGENDA ITEMS****100039.****Historic Preservation Board Appeal Regarding Roof Associated With COA For Property Located At 310 N.W. 7th Avenue (B)**

This is an appeal of a Certificate of Appropriateness for a roof in the Pleasant Street Historic District.

Explanation: The applicant, Mr. Jason Straw, has appealed the Historic Preservation Board's approved Certificate of Appropriateness for the subject property located at 310 N.W. 7th Avenue, Gainesville, FL. The property is located in the Pleasant Street Historic District. Mr. Straw seeks an approval of his request to replace an existing roof on the house with a metal roof profile called Rib Panel.

The Historic Preservation Board heard the above-cited item at its May 4, 2010 public meeting. The Historic Preservation Board's motion to grant a certificate of appropriateness (COA) for the proposed project was approved as presented with a 5-V crimp roof and the replacement of the windows with documentation of the deterioration of the original windows (Submitted photographs or staff verification). The Historic Preservation Board unanimously approved the Certificate of Appropriateness with that condition.

With respect to this appeal the City of Gainesville Land Development Code at 30-112 (7) (i) indicates that the City Commission hear and consider all evidence and testimony before it regarding the appeal and shall render its decision promptly. The City Commission may affirm, amend or reverse the Historic Preservation Board's decision. The decision of the City Commission shall be reduced to writing and shall constitute final administrative review. Appeals from the City Commission may be made to the courts as provided by law.

Fiscal Note: None.

RECOMMENDATION

The City Commission: 1) hear the appeal of the decision of the Historic Preservation Board; and 2) affirm, amend, or reverse the decision of the Historic Preservation Board.

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100039a_HP_B Staff Rpt_20100617.pdf
100039b_HP_B Minutes 5-4_20100617.pdf
100039_Order_20101007.pdf

UNFINISHED BUSINESS

COMMISSION COMMENT

CITIZEN COMMENT

ADJOURNMENT 9:38 PM